

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CR-6222-2024 (O&M)****Date of Decision : 12.09.2025**

Angrej Singh

... Petitioner

Versus

Deep Chand Jain and Company

... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. S.S. Dhillon, Advocate for the petitioner.

Mr. Naresh Jain, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed challenging the order dated 03.01.2023 whereby defence of the defendant-petitioner was struck off for not filing the written statement despite numerous opportunities.
2. Learned counsel for the defendant-petitioner would contend that given one opportunity, the defendant-petitioner would file his written statement and is also willing to compensate the plaintiff-respondent by way of costs.
3. *Per contra* learned counsel for the plaintiff-respondent would contend that sufficient opportunities have already been given to the defendant-petitioner hence no fault can be found with the impugned order.
4. Heard.

5. Hon'ble Supreme Court in the case of **Desh Raj vs. Balkishan (D)** through proposed LR Ms. Rohini [2020 (1) RCR (Civil) 807] has held as under :

“ANALYSIS & CONCLUSION

11. At the outset, it must be noted that the Commercial Courts Act, 2015 through Section 16 has amended the CPC in its application to commercial disputes to provide as follows:

“16. Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes - (1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule.

(2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a specified value.

(3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908, by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of

Civil Procedure as amended by this Act shall prevail.”

12. *Hence, it is clear that post coming into force of the aforesaid Act, there are two regimes of civil procedure. Whereas commercial disputes [as defined under Section 2(c) of the Commercial Courts Act, 2015] are governed by the CPC as amended by Section 16 of the said Act; all other noncommercial disputes fall within the ambit of the unamended (or original) provisions of CPC.*

13. *The judgment of Oku Tech (supra) relied upon the learned Single Judge is no doubt good law, as recently upheld by this Court in SCG Contracts India Pvt. Ltd. v. KS Chamankar Infrastructure Pvt. Ltd., AIR 2019 SC 2691, but its ratio concerning the mandatory nature of the timeline prescribed for filing of written statement and the lack of discretion with Courts to condone any delay is applicable only to commercial disputes, as the judgment was undoubtedly rendered in the context of a commercial dispute qua the amended Order VIII Rule 1 CPC.*

14. *As regard the timeline for filing of written statement in a non-commercial dispute, the observations of this Court in a catena of decisions, most recently in Atcom Technologies Ltd. v. Y.A. Chunawala and Co., (2018) 6 SCC 639 holds the field. Unamended Order VIII Rule I, CPC continues to be directory and does not do away with*

the inherent discretion of Courts to condone certain delays.”

6. The suit in the present case is for recovery of ₹17,16,444.85 and in case the defendant-petitioner is not allowed to file his written statement, grave injustice would be occasioned to him. No doubt the defendant-petitioner has been remiss in filing the written statement however, in order to do complete justice between the parties, this Court deems it appropriate to grant one opportunity to the defendant-petitioner to file his written statement within a period of 15 days from today subject to payment of ₹30,000/- as costs to be paid to the plaintiff-respondent. The payment of costs shall be a condition precedent for filing the written statement. It is made clear that in case the written statement is not filed within the time granted and the costs are not paid, the present revision petition shall be deemed to having been dismissed.

7. The revision petition is disposed off in the above terms. Pending applications, if any, also stand disposed off.

12.09.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO